

REMARKS

Claims

Claims 1–12 are pending. The claim identifiers recited herein are not to be construed with Applicants' acquiescence to the pending restriction requirement. Should the restriction requirement be withdrawn, either partially or entirely, the status of the claims will be amended to reflect such changes.

Use claims

Claims 1–3 are converted into US process claims. These amendments do not narrow the scope of the claims. The claims are directed to method of making the molecules of the instant invention. The Examiner is respectfully requested to examine the claims on the merits.

Amendments

The claims have been amended to use language in accordance with conventional US practice and to correct obvious typographical errors. Amended claim 1 is supported at least, by the disclosure contained in page 7, ¶2 of the originally-filed specification.

New claim 13 recites a product-by-process claim. New claim 14, directed to a method of using the molecules of the instant invention, is dependent on claim 13 and recites all the aspects of instant claim 13.

It is respectfully submitted that the amendments do not recite new matter nor do they narrow the scope of the claims. Entry thereof is respectfully requested.

IDS

Copies of non-patent literature references are enclosed herewith, rendering the objection thereof moot.

Rejection under §112, ¶2

The rejection, not specifically discussed herein, is moot in view of the amendments. Withdrawal of the rejection is respectfully requested.

Election

In response to the Restriction Requirement dated January 4, 2008, Applicants hereby

elect, with traverse, the following species:

- (A) Applicants elect method of detection
- (B) Applicants elect anti-CD40 antibody
- (C) Applicants elect extracellular detection
- (D) Applicants elect vital cells

and

- (E) Applicants *provisionally* elect inflammatory diseases.

The election in (E) is made provisionally because at page 4, ¶1, the Office Action states that an election should be made “if appropriate.” It is not clear whether this translates to an optional election or a required election. Applicants have made a provisional election purely as a means to advance prosecution.

Withdrawal of the restriction requirement, in its entirety, is earnestly solicited.

At page 3 of the open Office Action, the Examiner alleges that “the invention as well as the species do not provide a contribution over the prior art” because Assenmacher (WO 99/58977) “teach detecting and selecting/isolating antigen-specific T cells based upon CD154/CD40-specific antibodies and employing said enriched antigen-specific T-cells.” This contention is respectfully traversed. The instant specification, for example, page 4, ¶2 provides ample evidence Assenmacher’s disclosure is distinct from the subject matter of the instant claims. Moreover, all the claims in the application involve related subject matter, for example, a method for detecting or isolating T-lymphocytes comprising detecting the expression of CD154. It is respectfully submitted that, in view of the totality of the disclosure contained in the instant specification, Applicants’ claims relate to a single inventive concept, as stated under PCT Rule 13.1. Withdrawal of this requirement is respectfully requested.

The requirement for restriction is further traversed insofar as the Office Action has not demonstrated that an undue searching burden would be required to examine all groups and certainly not to examine at least more than one of the groups. “If search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct invention.” (Emphasis added.) See, M.P.E.P. §803.

Should the Restriction Requirement still be maintained, Applicants will seek reentry of

any withdrawn claims once allowable subject matter has been determined.

The Commissioner is hereby authorized to charge any fees associated with this response to Deposit Account No. 13-3402.

Respectfully submitted,

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